



Ninety-Ninth Legislature - First Session - 2005
Committee Statement
LB 216

Hearing Date: January 20, 2005

Committee On: Revenue

Introducer(s): (Revenue Committee)

Title: Change revenue provisions

Roll Call Vote – Final Committee Action:

Advanced to General File

X Advanced to General File with Amendments

Indefinitely Postponed

Vote Results:

8	Yes	Senators Baker, Connealy, Cornett, Janssen, Landis, Preister, Raikes and Redfield
0	No	
0	Present, not voting	
0	Absent	

Proponents:

George Kilpatrick, Legal Counsel
Mary Jane Egr Edson

Representing:

Committee on Revenue
Department of Revenue

Opponents:

Bill Peters

Representing:

Himself

Neutral:

None

Representing:

Summary of purpose and/or changes:

LB 216 is the main proposal from the Department of Revenue for improving the administration of the Revenue Act. The bill would 1) lower the threshold for mandatory electronic funds transfers of tax obligations, 2) impose reporting responsibilities and requirements for confidentiality for employees of the State Treasurer and D.A.S that are the same as for the Tax Commissioner, 3) broaden a sales tax exemption for school groups, clarify the sales tax on admissions as it applies to memberships, and add to the list of exempt health care agencies, 4) ease the withholding burden on publicly-traded partnerships, 5) require small business corporations to apportion income to Nebraska in more instances, 6) require withholding of employer-sponsored annuities, 7) impose withholding requirements on contracted payroll

service companies, 8) require filing a Nebraska amended return within 90 days of the related amended federal return, and 9) clarify where appeals of deficiency determinations are filed.

Section by section summary:

Section 1 would amend section 21-2612 to provide that members of an LLC, including members acting as managers, shall be liable for taxes in the same way corporate officers are.

Section 2 would amend section 77-1784 to decrease the threshold at which the Tax Commissioner may require electronic funds transfer for payment of any tax obligation from \$100,000 to \$20,000 per year. This section also calls for an electronic signature when appropriate criteria are developed.

Section 3 would amend section 77-2115 (state estate tax) to require employees of the State Treasurer and the Department of Administrative Services to report anything discovered about the value of an estate. The current law imposes this requirement only on the Tax Commissioner.

Section 4 would amend section 77-2701.16 (the definition of gross receipts for sales tax purposes) to provide that a taxable admission includes memberships that include free admission to a place in instances where the membership does not include any power to direct the organization or vote on its officers.

Section 5 would amend section 77-2701.27, the definition of “property”, to include direction as to how the sales tax statutes are to be construed. Under this section, unless the context clearly requires a different construction, use of the term “property” includes services subject to tax.

Section 6 would amend section 77-2704.12, the exemption for purchases by charitable entities, to include home health care agencies, hospices, or respite care service agencies.

Section 7 would amend section 77-2704.25 to broaden the sales tax exemption for school booster clubs and parent-teacher organizations. Currently, sales of meals are not within the exemption, but LB 216 would exempt meals also.

Section 8 would amend section 77-2708 dealing with sales tax collections and returns, to strike an “assignee” of the taxpayer as a person that may file a claim for a refund.

Section 9 would amend section 77-2711 to include the employees of the State Treasurer and the Department of Administrative Services in the section providing for a Class I misdemeanor for disclosing investigations or other affairs of retailers.

Section 10 would amend section 77-2716, adjustments to federal adjusted gross income for state tax purposes, to strike obsolete language regarding self employed health insurance and limit the adjustment for contributions to the Nebraska educational savings plan trust to the amount not deducted for federal purposes. Under federal law, self employed health insurance is now 100 percent deductible, so there is no need for the state deduction.

Section 11 would amend section 77-2727 to exempt publicly traded partnerships from the requirement to withhold income tax from each partner based on income earned within the state so long as the partnership agrees to file an informational return with the Department of Revenue for each partner with income derived in the state that is in excess of \$500.

Section 12 would amend section 77-2734.01 to require apportionment of the income of a small business corporation only if the corporation is taxable in another state. Under LB 216, if the small business corporation is not taxable in any other state, all its income would be taxable to Nebraska. This is how regular C-corporations are treated currently.

Section 13 would amend section 77-2753 to include employer-sponsored annuity payments within the withholding requirements.

Section 14 would amend section 77-2756 to allow any employer to appoint an agent for purposes of withholding. The agent shall be considered an employer and have the same responsibilities as the employer would have.

Section 15 would amend section 77-2775 to require an amended Nebraska return seeking a refund to be filed within 90 days of the related amended federal return.

Section 16 would amend section 77-2776, dealing with tax deficiencies, to include changes in the amount of a credit granted and to allow notice of any deficiency to be sent to the last known address of the entity for federal income tax purposes. Such notice shall be deemed to be received by each partner, shareholder or member for any entity income reported by such partner, shareholder, or member.

Section 17 would amend section 77-2786 to strike obsolete language and to provide that an extension signed on behalf of an entity will also extend the time allowed for a deficiency against the entity's partners, shareholders, or members with respect to the income.

Section 18 would amend section 77-27,119 to extend the requirements of confidentiality of tax information to employees of the State Treasurer and the Department of Administrative Services.

Section 19 would amend section 77-27,127 to provide that any appeal of a decision of the Tax Commissioner shall be in the District Court of Lancaster County except as provided in section 77-2798. That section allows claims that an income tax deficiency is void to be filed in the district court appropriate for the residence of the individual. The Nebraska Administrative Procedures Act, section 84-917, provides for appeals in the district court of the county where the action appealed is taken.

Section 20 would amend section 85-1808 to harmonize a cross-reference.

Section 21 would provide that the sales tax sections be operative October 1, 2005 and the income tax sections be operative for the 2005 tax year. Sections 22 through 25 are the repealers.

Explanation of amendments, if any:

The Committee amendments provide that the deadline for filing an amended Nebraska return is either 90 days after the related federal return or the usual deadline for amended state returns, whichever is later.

Senator David Landis, Chairperson

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